

REMARKS

Claims 7-8 and 10-13 are pending.

Claims 7-8 and 10-13 are rejected.

Claims 7, 8, and 13 are amended to specify that the billing data generation is performed within a receiver (specifically within set top box 215, item 238). Support for this amendment is found in the specification on page 6, lines 3-5, FIG. 2, and in other places.

The specification is amended to recite elements of FIGS. 1 and 2, as filed. This is to reconcile aspects of FIGS. 1 and 2 with the specification. The Examiner objected to the drawings as filed whereby the Examiner requested that the Applicants label the elements already identified with numbers with text labels, wherever possible. The Applicants are thereby submitting with this paper proposed informal drawings with text labels for which the Examiner can approve. Once the Examiner agrees or makes suggestions for such labels, the Applicants will supply formalized drawings.

Applicants are doing this to satisfy the Examiner even though 37 C.F.R. 1.83(a) and the respective sections of the MPEP do not require both text labels and numbers, as requested by the Examiner. That is, the Applicants are attempting to work with the Examiner and would appreciate the Examiners' guidance on how to improve the substance of the drawings.

No new matter is submitted with these amendments.

Claims 8 and 13 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to point out and distinctly claim the subject matter of the invention.

In particular, the Examiner asserts that the elements of, "means for communicating," "means for receiving," "means for processing," "means for generating," and "means for

purchasing” are not described with respect to the structure, material, or acts relating to the claimed functions. Obviously, such method claims do not use means plus function elements, therefore the Applicants do not understand the basis of the rejection and assume that the rejection is a simple mistake. If not, the Applicants would appreciate any guidance on the basis of the rejection.

For at least the above reasons, it is respectfully asserted that claims 8 and 13 are clear in light of the present specification. Reconsideration of the rejection is earnestly solicited.

Claims 7–8 and 10–13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2002/0170053 to Peterka et al. (hereinafter “Peterka”) in view of U.S. Patent No. 6,697,489 to Candelore et al. (hereinafter “Candelore”) and further in view of U.S. Patent Publication No. 2003/0140348 to Stewart (hereinafter “Stewart”).

Claim 8 recites, *inter alia*, “generating a billing record data in the receiver in response to the receipt of the authorization key and transmitting the billing record data from the receiver to the service provider.” Claims 7 and 13 recite analogous subject matter. The Examiner concedes that Peterka and Candelore fail to teach this element, but asserts that Stewart cures such deficiencies in its billing control system 114.

However, it should be noted that the present claims recite generating billing records *in the access device*. Stewart’s access device 200 does not include any such billing control system. Instead, the billing control system 114 is formed as part of Stewart’s service provider 100. Stewart explicitly says this in paragraph 23, stating, “The multimedia broadcast system 100 can further include ... a billing control system 114 that generates a billing code for invoicing a

subscriber when a user receives an authorization code.” The billing control system 114 therefore exists only on the service provider side, as shown in Stewart’s FIG. 1.

In response to this argument, the Examiner argues that the billing control system 114 of Stewart does in fact teach this claimed element by citing to paragraphs 0023, 0039, and 0041 of Stewart which when combined with Candelore and Peterka teach the such a claimed element. Claim 8 claims “*generating a billing record data in the receiver* in response to the receipt of the authorization key and transmitting the billing record data from the receiver to the service provider,” (emphasis added), where such billing record data is generated within a receiver. If one were to refer to billing system 114 of Stewart, it is clear that the billing system is external to any of the subscribers 200 as shown in FIG. 1.

This would not involve billing record data coming from a receiver as claimed in Claim 8. It is clear that the source of billing information is different between the prior art and the present invention where, “Referring to step 410, a billing code can be generated by the billing control system 114, responsive to the user request to view the presentation” (paragraph 0041 of Stewart), where system 114 of Stewart is external of the receiver. That is, the source of billing information is different in Stewart (in view of the other prior art) and the conditions of generating the billing information is not the same as “that billing code is generated in response to an authorization code,” as stated by the Examiner in the Final Rejection (Page 2, First Paragraph January 19, 2011). Clearly, the source and the conditions of generating billing data is different in Claim 8 as compared to the prior art.

Moreover, Stewart’s access device 200 is shown in FIG. 2, and there is no component which could reasonably be interpreted as generating billing records. There is furthermore no

indication whatsoever that, even if the access device 200 (with the cited prior art) could generate such records, it could then transmit the record to the service provider 100.

In light of the above arguments and the Examiner's concessions with respect to Peterka and Candelore, it is respectfully asserted that Peterka, Candelore, and/or Stewart, taken alone or in any combination, fail to disclose or suggest generating a billing record at the access device in response to the receipt of the authorization key, wherein the access device transmits the billing record to the service provider. It is therefore believed that Claims 7, 8, and 13 are in condition for allowance. Because Claims 10–12 depend from Claim 8 respectively and include all of the subject matter of their parent claims, it is believed that Claims 10–12 are also in condition for allowance. Reconsideration of the rejection is earnestly solicited.

In view of the foregoing arguments and amendments, Applicant respectfully requests that the rejections of the claims set forth in the Final Office Action of January 19, 2011 be withdrawn, that pending Claims 7-8 and 10–13 be allowed, and that the case proceed to early issuance of Letters Patent in due course.

Respectfully submitted,

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